

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

HILLCREST INVESTMENTS, LTD., et al.,  
 Plaintiffs,  
 v.  
 AMERICAN BORATE COMPANY, et al.,  
 Defendants.

Case No. 2:21-cv-00964-RFB-NJK

**ORDER**

[Docket No. 31]

Pending before the Court is Defendants' motion to stay discovery.<sup>1</sup> Docket No. 31. Defendants ask the Court to stay discovery until their pending motions to dismiss are resolved. *Id.* at 2; *see also* Docket Nos. 5, 7, 17 (motions to dismiss). No response was filed, and the time to do so has now passed. *See* Docket. The motion is properly resolved without a hearing. *See* LR 78-1.

The Court has broad discretionary power to control discovery. *See Little v. City of Seattle*, 863 F.2d 681, 685 (9th Cir. 1988). "The Federal Rules of Civil Procedure do not provide for automatic or blanket stays of discovery when a potentially dispositive motion is pending." *Tradebay, LLC v. eBay, Inc.*, 278 F.R.D. 597, 601 (D. Nev. 2011). Discovery should proceed absent a "strong showing" to the contrary. *See, e.g., Turner Broadcasting Sys., Inc. v. Tracinda Corp.*, 175 F.R.D. 554, 556 (D. Nev. 1997). In deciding whether to grant a stay of discovery, the Court is guided by the objectives of Fed. R. Civ. P. 1 to ensure a just, speedy, and inexpensive determination of every action. *Tradebay*, 278 F.R.D. at 602–03. The case law in this District makes clear that a stay of discovery is appropriate when: (1) the pending motion is potentially dispositive in nature and scope; (2) the potentially dispositive motion can be decided without

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<sup>1</sup> Defendant Ramm Corporation has not appeared in this case, *see* Docket, and, therefore, did not join Defendants in filing the instant motion.

1 additional discovery; and (3) the Court has taken a “preliminary peek” at the merits of the  
 2 potentially dispositive motion and is convinced that the plaintiff will be unable to state a claim for  
 3 relief. *See Kor Media Group, LLC v. Green*, 294 F.R.D. 579, 581 (D. Nev. 2013).<sup>2</sup>

4 The failure to respond to a motion “constitutes a consent to the granting of the motion.”  
 5 LR 7-2(d). In addition, the Court has addressed the merits of Defendants’ motion, and finds that  
 6 a stay of discovery is appropriate in this case.

7 Accordingly, Defendants’ motion to stay discovery, Docket No. 31, is hereby  
 8 **GRANTED**.<sup>3</sup> In the event resolution of Defendants’ motions to dismiss do not result in  
 9 termination of this case, the parties must file a joint proposed discovery plan no later than seven  
 10 days after the entry of the order(s) resolving the motions to dismiss.

11 IT IS SO ORDERED.

12 Dated: August 5, 2021

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 Nancy J. Koppe  
 United States Magistrate Judge

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 24 <sup>2</sup> Conducting the “preliminary peek” puts the undersigned in an awkward position because  
 25 the assigned district judge who will decide the motion to dismiss may have a different view of its  
 26 merits. *See Tradebay*, 278 F.R.D. at 603. The undersigned’s “preliminary peek” at the merits of  
 27 that motion is not intended to prejudice its outcome. *See id.* As a result, the undersigned will not  
 28 provide a lengthy discussion of the merits of the pending motion to dismiss in this instance.  
 Nonetheless, the undersigned has carefully reviewed the arguments presented in the motion to  
 dismiss and subsequent briefing.

<sup>3</sup> The stay of discovery applies only to Plaintiffs and the defendants who filed the instant  
 motion.